

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DOUGLAS EL	:	CIVIL ACTION
	:	
Plaintiff	:	
v.	:	No. 02CV3591
	:	
SOUTHEASTERN PENNSYLVANIA	:	JURY TRIAL DEMAND
TRANSPORTATION AUTHORITY	:	
	:	
Defendant.	:	

**DEFENDANT, SEPTA’S MOTION TO COMPEL
PLAINTIFF TO PRODUCE HIS TAX RETURNS AND ATTACHMENTS**

Southeastern Transportation Authority (“SEPTA”), hereby requests that an Order be entered in favor of SEPTA compelling Plaintiff to produce his local, state and federal tax returns and attachments for the years 2000 through the present, for the reasons more fully set forth in its accompanying Memorandum of Law.

Respectfully submitted,

Robert J. Haurin
SAUL H. KRENZEL & ASSOCIATES
42 South 15th Street, Suite 800
Philadelphia, PA 19102
(215) 977-7230

Dated: June 7, 2004

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DOUGLAS EL	:	CIVIL ACTION
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Plaintiff	:	
v.	:	No. 02CV3591
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TRANSPORTATION AUTHORITY	:	
	:	
Defendant	:	
	:	

DEFENDANT, SEPTA'S MEMORANDUM OF LAW IN SUPPORT OF ITS

MOTION TO COMPEL PLAINTIFF'S TAX RETURNS

Defendant, Southeastern Pennsylvania Transportation Authority (hereafter "SEPTA") submits the within Memorandum of Law in Support of its Motion to Compel Plaintiff to produce his Tax Returns and Attachments.

I. INTRODUCTION

On June 4, 2003, SEPTA requested that Plaintiff produce his local, state and federal tax returns and attachments for the years 2000 to the present. To date, SEPTA has received only unsigned pencil copies of federal tax returns for 2000 and 2002 together with certain W-2 withholding forms for 2000, 2001 and 2002. Since that time, SEPTA has requested production of these documents on three separate occasions. First, in a letter dated March 31, 2004, SEPTA requested that Plaintiff produce this information. (See Exhibit "A.") Then, on April 27, 2004, SEPTA requested that Plaintiff produce his tax returns. (See Exhibit "B.") Finally, on May 27,

2004, SEPTA requested for the fourth time that these documents be produced. (See Exhibit "C.") SEPTA's requests have been ignored.

II. ARGUMENT

It can hardly be gainsaid that Plaintiff's earnings for the years 2000-2003 are relevant to his claim for back pay in this case. Indeed, liability for back pay is calculated by comparing the amount that Plaintiff would have earned but for the alleged discrimination to what he actually earned. Albemarle Paper Co. v. Moody, 422 U.S. 405, 421 (1975). Thus, Plaintiff's tax returns are clearly relevant in that they will show the amount that Plaintiff earned for the period in which he is seeking back pay.

SEPTA has requested this information four times, most recently on May 27, 2004. SEPTA's requests have been ignored. This Court should therefore order Plaintiff to produce this information.

III. CONCLUSION

For all of the foregoing reasons, SEPTA's Motion to Compel Plaintiff to Produce his Tax Returns and Attachments should be granted and Plaintiff should be directed to produce his local, state and federal tax returns and attachments from 2000 through the present.

Respectfully submitted,

ROBERT J. HAURIN, ESQUIRE
SAUL H. KRENZEL & ASSOCIATES
Attorney for Defendant, SEPTA

DATED: June 7, 2004

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	:	
Defendant.	:	

CERTIFICATION OF COUNSEL

I, Robert J. Haurin, Esquire certify to this Court that the parties were unable to resolve this dispute without the intervention of the Court. Specifically, I wrote to counsel for Plaintiff three times and asked that the documents that are the subject of this motion be produced. To date, I have not received the documents from Plaintiff or any certification that Plaintiff does not have the requested documents.

Respectfully submitted,

Robert J. Haurin
SAUL H. KRENZEL & ASSOCIATES
42 South 15th Street, Suite 800
Philadelphia, PA 19102
(215) 977-7230

Dated: June 7, 2004

CERTIFICATE OF SERVICE

I, ROBERT J. HAURIN, ESQUIRE, hereby certify that a true and correct copy of Defendant, SEPTA's Motion to Compel Plaintiff to produce his Tax Returns and Attachments was served via first class mail on Monday, June 7, 2004, upon the following:

David J. Cohen, Esquire
Spector, Rosman & Kodruff, P.C.
1818 Market Street, Suite 2500
Philadelphia, PA 19103

ROBERT J. HAURIN, ESQUIRE
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Dated: June 7, 2004